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US Patent and Trademark Office
I am writing to thank you
for re-examining PATENT NO. 6,924,413,
a patent on rabbits whose eyes
are purposely injured, so that they
may be used in tests to develop treat-
ments for dry eye. The tests cause
blindness, and the rabbits are
killed subsequent to the tests.
I am aware of the fact that the
Patent office has accepted all of
the American Anti-vivisection Society's
(AAVS) proposed rejections of the
rabbit patent. The USPTO has
accepted all of AAVS's 28 rejection
claims on the rabbit patent and has
adopted the AAVS's proposal as its
own.

The USPTO took a similar
stance regarding AAVS information
on a patent on beagles who were
sickened and then infected with a
mold in 2004. The USPTO re-examined
the beagle patent, and eventually, the
patent holder Texas A+M University
dropped its claim on the patent.

However, the USPTO continues to issue animal patents. The Canadian Supreme Court rejected the argument that animals could be patented, by finding that mice and other higher life forms were not analogous to patentable subject matter.

U.S. patent law states that for a patent to be awarded, the subject matter must be a new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof. Additionally, the subject matter sought to be patented must be sufficiently different from what has been used or described before that it may be said to be nonobvious to a person having ordinary skill in the area of technology related to the invention.

The AAVS states that animals are not patentable subject matter. -- A rabbit with damaged eyes is still a rabbit. Additionally, the methods used to damage and cause blindness to rabbits' eyes

ball far short of being
"non-obvious" because prior
literature suggests using similar
techniques claimed in the patent.

Thank you for accepting
all of AAUS's proposed rejections
of the rabbit patent.

PATENT NO. 6,924,413 and I
urge you to not issue patents on
animals and to make this a
permanent policy.

Thank you I will
await your reply.

Jeresa D. Tyler

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